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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,768	03/07/2002	Dieter Kress	2147.GLE.PT	8295

26986 7590 04/26/2004

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EXAMINER

WALSH, BRIAN D

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/092,768

Applicant(s)

KRESS ET AL.

Examiner

Brian D. Walsh

Art Unit

3722

--The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

THE REPLY FILED 29 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

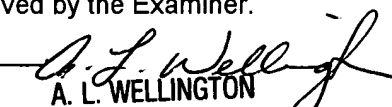
Claim(s) rejected: 9-14, 16-22 and 24-30.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 29 March 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____


A. L. WELLINGTON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Continuation of 2. NOTE: The Examiner has considered Applicant's arguments and proposed amendments but has determined that they do not place the Application in condition for allowance, nor do any of the proposed modifications overcome the rejections set forth in the final Action.

Application initially sets forth that the amendments to the claims are the result of combining existing claims.

Applicant's first argument that Soric nor any other cited reference discloses a clamping lip sized approximately equal to the length of a groove on an insert is contested by the Examiner. Nearly every reference cited by the Examiner shows a cutting insert with a clamping groove extending "approximately" the entire width of the insert (Erickson 6,000,885 - figure 3, Lyon et al. 5,100,269 - figure 1, Luck 4,697,963 - figures 11, 14, 17, 20, McCreery 3,934,320 - figures 5 and 6D, Fors 1,396,180 - figure 2, Alexander 6,379,087 - numerous figures, Kress 5,211,516 - figure 1, etc.). The Examiner assumed that Applicant's intended argument was that this was not shown on a triangular insert.

Applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642, F. 2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F. 2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The same argument is true of the Applicant's discussion regarding the partially cylindrical nature of the tool. The Examiner further notes that such a limitation is so notoriously well known in the art that it is purely a matter of design choice. The Examiner draws Applicant's attention to figure 1 of Kautto. The Examiner provided an additional reference to ensure proper handling of the claims, but points out that Kautto does (most likely) show a tool post that is at least partially cylindrical. The flat surface shown (in the area of 11) is known to be provided in cylindrical tool posts to restrict rotation of the post with respect to the machine tool. Furthermore, the intersection of the sides of the tool post with a front surface (forward, toward the tool itself) show rounded lines of intersection). While the Examiner determined this as an explicit teaching of an at least partially cylindrical tool post, the additional reference was still provided since Kautto does not explicitly state the tool post is cylindrical in nature.

Applicant next mentions Minshall Hopkins, but only directs comments to the lip, which Minshall was not used to reject. Again, Applicant is reminded of the above referenced case law..